

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
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5 ORACLE AMERICA, INC.

6 Plaintiff,

7 vs. No. 3:10-cv-03561-WHA

8 GOOGLE, INC.,

9 Defendant.
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14 VIDEOTAPED DEPOSITION OF OWEN ASTRACHAN, Ph.D.

15 San Francisco, California

16 Monday, March 14, 2016

17 Volume I
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21 REPORTED BY:

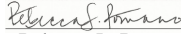
22 REBECCA L. ROMANO, RPR, CSR No. 12546

23 JOB NO. 2241710
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| <p>1 Q. Did you perform any statistical analysis 2 to determine that the methods that you tested were 3 representative of the remainder? 4 A. I did not perform any such statistical 5 analysis. 6 Q. For example, did you take a random 7 sample? 8 A. I did not run a random number generator 9 and then from that choose this, if that's what a 10 "random sample" meant. I chose the methods 11 arbitrarily. 12 Q. Apart from your own test, did you also 13 try to duplicate in any way the results of Miss -- 14 Dr. Schmidt's test? 15 A. I -- I -- in Dr. Schmidt's report, he 16 talks about several tests, including removing 17 individual -- and I don't recall, you know -- 18 classes or methods on a methodical basis. And I 19 didn't run all of those. I ran ones that I thought 20 were being indicative of saying that yes, in fact, 21 the build did fail. 22 So I did not reproduce in the entirety 23 his tests, but I tried to reproduce the tests, to 24 the extent that I could, with fewer runs. 25 Q. And -- and to the extent that you</p> <p style="text-align: right;">Page 94</p> | <p>1 Q. Now, are you familiar with Dr. Schmidt's 2 analysis using the Understand software? 3 A. I read in his report where he undertook 4 to run Understand and create visualizations for his 5 report, yes. 6 Q. Have you done anything to try to 7 duplicate that work? 8 A. I ran Understand so that I would 9 understand how it worked, and looked at the results 10 of that. I did not try to create visualizations, 11 but I wanted to understand what the output of the 12 Understand platform program was, since it was used 13 in several of the reports that I read by experts 14 that are working for Oracle. 15 Q. All right. And did you make that -- when 16 did you do what you just described, running 17 Understand to understand the output? 18 A. Sometime in February. 19 Q. And that was after you received 20 Dr. Schmidt's report, and before you made your 21 second-round report? 22 A. That sounds right. I would have to 23 review my notes and logs to see precisely when that 24 was. But I did -- I certainly did not run it 25 before receiving the -- the reports from experts --</p> <p style="text-align: right;">Page 96</p> |
| <p>1 reproduced his test, did you get any different 2 results than Dr. Schmidt reported? 3 A. I did not get any different results in 4 what he reported in his original report. I did 5 have a difference in -- I am not sure if it is his 6 rebuttal or reply, because I forget which ones were 7 there, in terms of removing an entire method and 8 having a build fail. 9 Q. All right. And are you referring now to 10 actually Dr. Schmidt's effort to duplicate your 11 tests and the difference in results? 12 A. That's correct. 13 Q. All right. Do you have any explanation 14 for those difference in outcome? 15 A. There are many differences in the 16 versions of Android that we used, and I would have 17 to go back and look to see what they were. When 18 you construct the build, you can create a default 19 build by saying essentially make, and then there 20 are ways of creating a different build other than 21 the default. 22 In all my tests, I simply ran the default 23 build, and I'm reasonably confident that, should 24 anybody run that same default build, the results 25 would be the same.</p> <p style="text-align: right;">Page 95</p> | <p>1 Q. All right. 2 A. -- and Dr. Smith in particular. 3 Q. And did you report on any results or 4 offer any opinions on the basis of the work that 5 you did in using the Understand program? 6 A. I did not write about those in my 7 reports, no. 8 Q. Is there any reason why not? 9 A. There was nothing that I, in talking with 10 counsel, thought would be useful in my reports in 11 replying that was based on running Understand. 12 Running Understand was something to do to 13 comprehend the scope of what might be possible. 14 And after running it and seeing the results, it 15 became clear to me, in discussing with counsel, 16 that there was nothing that we needed to do to 17 respond to, in terms of that. 18 Q. Is it fair to say, then, that your -- 19 your work in using Understand to comprehend the 20 scope of what might be possible revealed no major 21 flaws in Dr. Schmidt's analysis? 22 MR. KAMBER: Objection to form. 23 THE DEPONENT: I ran Understand simply to 24 see the results of what Understand produced. And 25 Dr. Schmidt's analysis, in terms of creating</p> <p style="text-align: right;">Page 97</p> |

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| <p>1 Q. All right. Is your -- your view that 2 Google's use is fair informed in any way by the 3 assumption that there was no harm to Sun or Oracle? 4 MR. KAMBER: Objection to form. 5 THE DEPONENT: I don't think that's part 6 of my analysis. I have talked about the four 7 factors of fair use, and except in the fourth 8 factor, I'm not sure where harm would come into 9 play. But I don't think I have taken a position, 10 nor on whether harm has come, in my analysis. 11 Q. (By Ms. Hurst) So this is not an 12 example, in your view, of no harm, no foul? 13 A. I think, in your question, you're making 14 a reference to the first exhibit that you gave me 15 with a no harm, no foul in my Comp Sci 108 class. 16 And, in that particular case, what I was trying to 17 explain to students is that it's not acceptable to 18 say because you don't think there's harm, that it's 19 necessarily okay. And following up, perhaps 20 unnecessarily, in your statement just moments ago 21 about just because 98 percent of the people have 22 downloaded it. 23 So I think harm -- we're looking at these 24 as legal things and perhaps ethical. So the harm 25 is not part of what you look at in understanding</p> <p style="text-align: right;">Page 182</p> | <p>1 I, Rebecca L. Romano, a Certified Shorthand 2 Reporter of the State of California, do hereby certify: 3 That the foregoing proceedings were taken before me 4 at the time and place herein set forth; that any 5 witnesses in the foregoing proceedings, prior to 6 testifying, were administered an oath; that a record of 7 the proceedings was made by me using machine shorthand 8 which was thereafter transcribed under my direction; 9 that the foregoing transcript is true record of the 10 testimony given. 11 Further, that if the foregoing pertains to the 12 original transcript of a deposition in a Federal Case, 13 before completion of the proceedings, review of the 14 transcript [] was [X] was not requested. 15 I further certify I am neither financially 16 interested in the action nor a relative or employee of 17 any attorney or any party to this action. 18 IN WITNESS WHEREOF, I have this date subscribed my 19 name. 20 Dated: March 15, 2016 21 22 23 24  25 Rebecca L. Romano, RPR, CSR. No 12546</p> <p style="text-align: right;">Page 184</p> |
| <p>1 whether what you are doing is legal or ethical. 2 MS. HURST: Okay. I think my examination 3 is concluded. 4 MR. KAMBER: No questions for me. Thank 5 you. 6 THE VIDEOGRAPHER: This concludes today's 7 deposition of Dr. Owen Astrachan. Total number of 8 media used is four. We are going off the record at 9 4:00 o'clock p.m. 10 (TIME NOTED: 4:00 p.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 183</p> | |